

Amendments to the Drawing

Please substitute the enclosed sheet of drawing, containing Figure 4, for the corresponding sheet of drawings now on file herein.

REMARKS

The objections to the drawings have been obviated by the enclosed new sheet of drawings in which cross-hatching has been added to the right side element as required. The amendment to the specification and drawings obviates the informal objections issued in the office action. Reconsideration is requested of the rejection under 35 USC §102 and 35 USC §103.

The PTO has issued a non-final rejection of Claims 1-3 as anticipated by Patent No. 6,079,169 to Shaver (the "Shaver Patent") and Patent No. 3,481,643 to Campbell (the "Campbell Patent"). Furthermore, the PTO has issued a non-final rejection on claims 4-8 as obvious over Patent No. 3,887,085 to Bukaitz, as well as the Shaver Patent and the Campbell Patent.

Applicant asserts that his invention is not anticipated by the Shaver Patent or the Campbell Patent. The PTO determined that the recitation of "escalator side truss" in the preamble was merely a statement of intended use. Applicant disagrees with this conclusion because the preamble stating that the Applicant's device is "[a]n escalator side truss assembly" serves to give further positive limitations to the invention claimed. More specifically, the preamble defines to those skilled in the art that the claimed structure functions as a standing support for the weight of the components of the escalator assembly. Therefore, the Applicant's invention, including the corrugated panel and stiffeners is further

implicitly functionally recited as providing support for the downward weight of the escalator assembly. Applicant has amended Claim 1 to further clarify this limitation on Applicant's invention.

Both the Shaver Patent and the Campbell Patent are incapable of performing the intended purpose of Applicant's device. The Shaver Patent involves a storm shutter that is designed to resist a force directed inward into its body. The device of the Shaver Patent is not designed to support a downward force. For instance, the corrugated metal sheets on the Shaver device is attached at the bottom merely by fasteners that are exposed to the elements and designed to be removable. This less secure attachment at the integral region for supporting downward force clearly shows that the Shaver's Patent cannot perform the intended use of Applicant's device.

Similarly, the Campbell Patent discloses a chassis assembly for a vehicle that lies horizontally and supports force directed inwardly towards the body. It is not designed to stand and support a downward force. Further, the chassis construction utilizes a rigid floor panel that is preferably cemented or bonded to the corrugated metal all throughout the region that the two parts contact each other. This dramatically alters the construction of the Campbell Patent and makes it significantly more expensive and less customizable than the Applicant's device. Further, the rigid panel increases the weight of the assembly that may necessitate a side support near the interior portion of the corrugated metal which

could interfere with the escalator assembly to maintain its upright position. The rigid panel would also require an expensive and time consuming fastening which Applicant's invention is specifically intended to avoid.

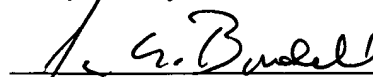
Claims 1-3 of the Applicant's patent application are patentably distinct from the teachings of the Campbell and Shaver patents. The subjects of the cited references are incapable of performing the intended purpose of the Applicant's invention. Accordingly, the 102(b) refusal on Claims 1-3 should be withdrawn.

The Campbell, Shaver and Bukaitz patents are of nonanalogous arts and are an insufficient basis for the §103 rejection issued on Claims 4-8. MPEP §2141.01(a). The cited patents concerning a vehicle chassis, storm shutter, and an above ground modular swimming pool enclosure all are in different fields of applicant's endeavor and are not reasonably pertinent to the particular problem with which the inventor was concerned. See In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). More specifically, the inventor was concerned with an improved truss construction for escalators that does not require complex fastenings, is customizable, and economical while providing support for an escalator assembly. The Shaver Patent involves providing an improved window shield guarding against damage from objects that are directed into the main body of the window shield. The Campbell Patent and the Bukaitz Patent involving a vehicle chassis and swimming pool flooring provide support for objects resting directly on the main body of the corrugated steel.

In contrast, Applicant's invention involves a standing strut where shielding structures or flooring-type products are not pertinent because the concern is neither how to protect the assembly from damage from forces directed inwards nor to provide a platform structure for supporting weight on the surface of its main body. In the context of an escalator assembly strut, these structures which rely on the face of the structure for support or protection would not have logically commended itself to an inventor's attention in considering his problem. An escalator strut by its nature cannot have any type of lengthy horizontal structure for supporting the escalator assembly. The inventor's idea to use a standing corrugated steel structure to support the weight of an escalator assembly is neither taught nor suggested by the cited patents.

In view of the foregoing arguments, each of the referenced independent claims and claims dependent thereon are believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to withdraw the outstanding rejections of the claims and pass this application to issue.

Respectfully submitted,

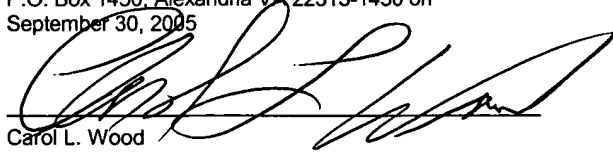


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